

HOUSE BILL NO. 49

INTRODUCED BY J. MCKENNEY

BY REQUEST OF THE DEPARTMENT OF COMMERCE AND THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY FROM THE COAL SEVERANCE TAX PERMANENT FUND TO THE DEPARTMENT OF COMMERCE FOR MICROBUSINESS DEVELOPMENT; ALLOWING LOAN FEES FROM THE PROCEEDS OF DEVELOPMENT LOANS TO BE USED TO PAY OPERATING EXPENSES; REQUIRING STAGGERED TERMS FOR THE MEMBERS OF THE MICROBUSINESS ADVISORY COUNCIL; ALLOWING THE COUNCIL TO MEET BY TELEPHONE CONFERENCE CALL; AMENDING SECTIONS 17-6-407 AND 17-6-411, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-407, MCA, is amended to read:

"17-6-407. Microbusiness development loan account and finance program administrative account

-- criteria -- limitations. (1) There is in the state special revenue fund a microbusiness development loan account into which the funds appropriated pursuant to section 11, Chapter 602, Laws of 1991, money appropriated pursuant to section 3, Chapter 413, Laws of 1995, money appropriated pursuant to [section 3], and money received in repayment of the principal of development loans must be deposited. The department may make development loans from the account to a certified microbusiness development corporation.

(2) There is in the state special revenue fund a microbusiness finance program administrative account into which must be deposited:

(a) all interest received on development loans received directly from microbusiness development corporations;

(b) service charges or fees received from certified microbusiness development corporations; and

(c) grants, donations, and private or public income.

(3) Money in the administrative account may be transferred to the development loan account or be used to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and other operating expenses of the program.

(4) Subject to subsection (1), a certified microbusiness development corporation that receives a development loan may apply for an additional loan if the applicant meets the performance criteria established by the department.

(5) To establish the criteria for making development loans, the department shall consider:

(a) the plan for providing services to microbusinesses;

(b) the scope of services to be provided by the certified microbusiness development corporation;

(c) the geographic representation of all regions of the state, including urban, rural[, and tribal] communities;

(d) the plan for providing service to minorities, women, and low-income persons;

(e) the ability of the corporation to provide business training and technical assistance to microbusiness clients;

(f) the ability of the corporation, with its plan, to:

(i) monitor and provide financial oversight of recipients of microbusiness loans;

(ii) administer a revolving loan fund; and

(iii) investigate and qualify financing proposals and to service credit accounts;

(g) sources and sufficiency of operating funds for the certified microbusiness development corporation; and

(h) the intent of the corporation, with its plan and written indications of local institutional support, to provide services to a designated multicounty region of the state.

(6) Development loan funds may be used by a certified microbusiness development corporation to:

(a) satisfy matching fund requirements for other state, federal, or private funding only if funding is intended and used for the purpose of providing or enhancing the certified microbusiness development corporation's ability to provide and administer loans, technical assistance, or management training to microbusinesses;

(b) establish a revolving loan fund from which the certified microbusiness development corporation may make loans to qualified microbusinesses, provided that a single loan does not exceed \$35,000 and the outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share does not exceed \$35,000;

(c) establish a guarantee fund from which the certified microbusiness development corporation may guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may not exceed \$35,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20% equity share may not exceed \$35,000.

(7) Development loan funds may not be:

(a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(b) used to:

(i) refinance a nonperforming loan held by a financial institution; or

(ii) pay the operating costs of a certified microbusiness development corporation. However, interest income and loan fees earned or advanced from the proceeds of a development loan may be used to pay operating expenses.

(8) Certified microbusiness development corporations are required to contribute cash from other sources to leverage and secure development loans from the program. Contributions provided by the corporation must be on a ratio of at least \$1 from other sources for each \$6 from the program. These contributions may come from a public or private source other than the program and may be in the form of equity capital, loans, or grants.

(9) Development loans must be made pursuant to a development loan agreement and may be amortization or term loans, bear interest at less than the market rate, be renewable, be callable, and contain other terms and conditions considered appropriate by the department that are consistent with the purposes of and with rules promulgated to implement this part.

(10) Each certified microbusiness development corporation that receives a development loan under this part shall provide the department with an annual audit from an independent certified public accountant. The audit must cover all of the microbusiness development corporation's activities and must include verification of compliance with requirements specific to the microbusiness program.

(11) A certified microbusiness development corporation that is in default for nonperformance under rules established by the department may be required to refund the outstanding balance of development loans awarded prior to the default declaration. A development loan is secured by a first lien on all funds and all receivables administered under the authority of the microbusiness development act by the

1 corporation receiving the loan. (Bracketed language terminates June 30, 2001--sec. 19, Ch. 512, L.
2 1999.)"

3

4 **Section 2.** Section 17-6-411, MCA, is amended to read:

5 **"17-6-411. Microbusiness advisory council -- appointment of members -- organization -- nonvoting**
6 **legislative consulting panel.** (1) Subject to the provisions of subsection (5), there is a microbusiness
7 advisory council composed of 13 members appointed by the governor from a list of candidates submitted
8 by the director of the department after the department provides by rule for a process of requesting and
9 receiving nominations from the public. ~~No more~~ More than seven of the council members may not live in
10 the same congressional district as the congressional districts existed on December 31, 1990. At least
11 three members must be representatives of certified community lead organizations. At least two of the
12 three community representatives shall reside in communities with a population of less than 15,000. At
13 least three members must be owners of qualified microbusinesses as defined in 17-6-403. At least two
14 members must have expertise in administering loan funds. The membership must include representation
15 of minorities, women, and low-income persons.

16 (2) Members shall serve staggered 4-year terms, except as necessary to achieve staggered terms
17 so that more than four council members' terms do not expire in any given year. A member appointed to
18 fill an unexpired term shall serve until the term expires.

19 (3) The members of the council shall elect a presiding officer and other officers as they determine
20 necessary.

21 (4) The council shall meet or convene by telephone conference call at least once each quarter and
22 more often as the presiding officer or a majority of the members determine necessary.

23 (5) (a) There is a legislative consulting panel of four members. The panel:

24 (i) shall meet with the council, participate in deliberations of the council, and advise the council
25 in performance of its functions under subsection (7) but may not vote on any motion before the council;
26 and

27 (ii) consists of:

28 (A) two representatives, including one from each party, appointed by the speaker of the house
29 of representatives; and

30 (B) two senators, including one from each party, appointed by the committee on committees.

(b) The members:

(i) must be appointed on or before the 10th day of each regular session of the legislature and shall serve until the convening of the next regular session of the legislature. If a vacancy on the panel occurs during a legislative interim, that vacancy must be filled in the same manner as the original appointment.

(ii) are entitled to compensation in the same manner as members of the council, as provided in subsection (6).

(6) Members of the council are not entitled to compensation for their services except for reimbursement of expenses as provided in 2-18-501 through 2-18-503.

(7) The function of the council is to advise the department regarding the creation, operation, and maintenance of the program and the policies and operations affecting the certified microbusiness development corporations."

NEW SECTION. Section 3. Appropriation. (1) There is appropriated \$2,500,000 to the department of commerce from the coal severance tax permanent fund provided for in 17-5-703 for the microbusiness finance program provided for in Title 17, chapter 6, part 4. The funds must be used to make development loans pursuant to 17-6-407.

(2) The funds appropriated in subsection (1) must be placed in the microbusiness development loan account provided for in 17-6-407(1).

NEW SECTION. Section 4. Three-fourths vote required. Because [section 3] appropriates money from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires a vote of three-fourths of the members of each house of the legislature for passage.

NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2001.

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